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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of the Suspension)
or Revocation of the License of)
ANTHONY V. AMMIRATA, D.D.S.)
To Practice Dentistry in the)
State of New Jersey)

Administrative Action
DECISION AND ORDER

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the filing of an administrative complaint on February 5, 1992, by Robert J. Del Tufo, then Attorney General of New Jersey, by Anne Marie Kelly, Deputy Attorney General, alleging in Count I that the respondent had completed only 303 hours of the 450 hours of continuing education required for the 1988-1989 academic year as set forth in a Consent Order entered into by the respondent with the Board of Dentistry on May 4, 1988. Counts II and III further alleged that the respondent failed to complete the required 450 hours of continuing education courses for the 1989-1990 and 1990-1991 academic years, respectively. Complainant alleged that respondent's failure to complete the continuing education as required by the Board's order constitutes professional misconduct in violation of N.J.S.A. 45:1-21(e). Count IV of the complaint (the only remaining count) alleged that respondent's rendering of dental treatment to a patient was performed by acts and practices which were repeatedly and/or grossly negligent and at variance from acceptable standards of care in violation of N.J.S.A. 45:1-

21(c) and (d). This count was transferred by the Board to the Office of Administrative Law for a hearing and was resolved by means of a Consent Order entered by the Board on March 4, 1993 providing for restitution to the named patient in the amount of \$600.00. Respondent filed an answer to the administrative complaint on or about April 30, 1992.

PROCEDURAL HISTORY

On December 5, 1980, the Board of Dentistry entered its first Final Decision and Order concerning the respondent. Therein Dr. Ammirata entered a plea of no contest to the charges of an administrative complaint alleging repeated and gross malpractice in the practice of dentistry. Specifically, it was alleged that he made improper diagnoses of TMJ arthritis and unnecessarily prescribed long and costly treatment therefor and rendered restorative dental treatment which was not performed according to acceptable dental standards. In addition, the complaint charged that respondent lacked good moral character as evidenced by his charging of unconscionable and excessive fees for treatment of patients and for attempts to collect fees for treatment not required and not rendered. The Order provided that respondent's license was to be suspended for a period of one (1) year, thirty (30) days of which was an active period of suspension and the remainder probationary. In addition, Dr. Ammirata was enjoined from treating TMJ patients until he completed a residency program in prosthodontics or periodontics, and he was assessed a civil penalty in the amount of \$10,000.00.

On April 26, 1985, an administrative complaint was filed by the Attorney General with the Board of Dentistry against the respondent alleging in Count I repeated and/or gross acts of negligence and malpractice in regard to dental treatment and in Count II treating patients for TMJ disorders without having completed the required residency course in violation of the December 5, 1980 Order.

On June 9, 1987, a third administrative complaint was filed by the Attorney General with the Board of Dentistry against the respondent alleging in 18 counts multiple acts of gross or simple malpractice as well as fraud and professional misconduct in connection with dental treatment and insurance claims for such treatment.

On May 4, 1988, the respondent entered into a Consent Order with the Board of Dentistry which resolved the 1985 and 1987 administrative complaints. Paragraph 1(a) of the Consent Order required the respondent for a period of five (5) years to complete 450 hours of continuing education in such areas of dental practice to be determined by the Board each year at the rate of at least two (2) days per week and not less than a minimum average of ten (10) hours per week. Such courses were to be approved by the Board prior to enrollment. The respondent further was required to obtain documentation of his satisfactory attendance at and completion of such courses to be provided to the Board at the end of each month within which the course was completed. The Order of May 4, 1988, further provided in

paragraph 10 that in the event the respondent was found to have violated any of the provisions of the Consent Order, his license to practice dentistry in the State of New Jersey would be revoked. The Consent Order also provided for the assignment of a dentist to monitor Dr. Ammirata's practice and restitution or waiver of fees to various patients. (A copy of the Order is attached hereto and made a part of the within Order).

On or about February 5, 1992, an Order to Show Cause was signed by William R. Cinotti, D.D.S., then President of the Board of Dentistry, ordering the respondent to show cause on April 15, 1992 why the Board should not enter an order suspending his license pending a final hearing based on the allegations of the verified complaint. That complaint and attachments alleged that respondent had failed to comply with the Consent Order in regard to the completion of continuing education for the first three years of the Order.

On April 15, 1992, the return date of the Order to Show Cause, respondent appeared with counsel, Jeffrey P. Blumstein, Esq. The Board determined to bifurcate the allegations of the complaint, retaining Counts I, II and III for a hearing before the Board and transferring Count IV for a hearing at the Office of Administrative Law. The Board entered an order on the record establishing June 10, 1992 as the date for the plenary hearing on Counts I, II and III.

On May 6, 1992, a Motion to Withdraw as Counsel for the respondent was filed by Mr. Blumstein. Said motion was supported

by a certification by Mr. Blumstein in which he asserted that in spite of correspondence and repeated phone calls to Dr. Ammirata requesting his assistance in preparation for the plenary hearing, respondent failed to contact Mr. Blumstein in order to discuss the matter. Mr. Blumstein further advised the Board that he was of the opinion that as a result of the non-cooperation of the respondent to assist in his defense, he could not provide adequate representation. Accordingly, the Board entered an order permitting withdrawal of counsel on May 20, 1992, and further ordered that the plenary hearing scheduled on June 10, 1992 before the Board would take place without further adjournment and that respondent's further failure to obtain counsel would not be cause for adjournment of the hearing.

On June 10, 1992, the respondent failed to appear for the plenary hearing. The Board office received a telephone call from a physician stating that Dr. Ammirata was too ill to attend. Written confirmation was requested from the physician but was never received. D.A.G. Anne Marie Kelly was permitted to proceed with the complainant's case in view of the fact that an expert witness was present and prepared to testify. The Board entered an Interim Order on June 10, 1992, subsequent to entry of the complainant's case, ordering a physician's certification concerning the respondent's medical condition and continuing the hearing until June 17, 1992, at which time respondent would be permitted to enter a defense to the allegations of the complaint.

Respondent failed to appear at the continuation of the

hearing on June 17, 1992, and on this occasion no telephone call or notice was received by the Board indicating a reason for the respondent's absence. The Board also received an affidavit on June 17, 1992 from Jean E. Murphy, supervising investigator, Division of Consumer Affairs Enforcement Bureau, stating that on June 10, 1992, the date of the scheduled hearing, Ms. Murphy made a telephone call to the office of Dr. Ammirata utilizing a fictitious name and was able to make an appointment for dental treatment on that same date. In addition, no written confirmation from the respondent or from his physician was received by the Board concerning Dr. Ammirata's illness and inability to appear at either or both of the scheduled hearings.

When the respondent failed to appear on June 17, 1992, D.A.G. Kelly moved before the Board for a judgment in default based on the respondent's failure to appear or respond in spite of having received adequate notice.

The Board then conducted deliberations in Executive Session and announced its decision in Public Session on June 17, 1992. The State's case consisted of the expert testimony of A. Milton Bell, D.D.S. as well as extensive documentary evidence. The Board's Order was memorialized in a written decision entered on July 1, 1992. Therein, the Board granted the default motion and ordered the revocation of the license of the respondent to practice dentistry in the State of New Jersey effective July 22, 1992. The Order also provided that the Board would entertain an application from the respondent for reconsideration of the

revocation order for a period of thirty (30) days from the June 17, 1992 hearing date. The application for reconsideration was required to include a written proffer of a legitimate and valid defense to the allegations of the complaint. Upon receipt of such application for reconsideration, the Board reserved the right to provide the respondent with an opportunity to be heard and present such defenses.

Thereafter, respondent retained John Paul Dizzia, Esq., who filed an application with the Board on behalf of the respondent for reconsideration of its order revoking his license to practice dentistry. Said application made a colorable showing of a legitimate defense to the allegations of the complaint as set forth in Counts I, II and III concerning the completion of required continuing education, and the Board, therefore, determined to provide the respondent with an opportunity to be heard on these issues.

An Order was entered on August 2, 1992, continuing the hearing on August 26, 1992 and charging respondent with the responsibility for obtaining the transcripts as well as copies of the documentary evidence submitted to the Board during the hearings which took place on June 10 and 17, 1992. Thereafter, the hearings continued on August 26, 1992, October 14, 1992, March 10, 1993, and March 31, 1993. Most of the evidence, including testimony and extensive documentation, pertained to proof of completion of continuing education courses.

The Board denied the application of counsel for the

respondent to present oral argument at the conclusion of the case but invited both counsel to submit proposed findings of fact and conclusions of law for the Board's consideration prior to the commencement of deliberations in this matter. By agreement of counsel, those submissions were received by the Board in June, 1993. During the summer Board meeting dates, the Board members reviewed the extensive record in this matter, especially all of the detailed documentation with respect to proof of attendance at continuing education courses by the respondent.

Subsequent to this comprehensive review of the record, the Board deliberated during Executive Session on September 8, 1993. The Board determined that the State had sustained its burden of proof and that respondent had failed to complete the 450 hours of continuing education as required by the May 4, 1988 Consent Order for each of the years 1988-89, 1989-90, and 1990-91. The Board further concluded that this conduct constituted professional misconduct. Prior to imposition of penalty, however, the Board determined to provide Dr. Ammirata with an opportunity to provide mitigating evidence. Accordingly, on October 13, 1993 a mitigation hearing was scheduled and notice of same was sent to counsel.

By letter dated September 17, 1993 Mr. Dizzia advised the Board that he was no longer representing the respondent. The Board also received a letter from Dr. Ammirata stating that he could not afford legal fees, that he was seeking new counsel, and requesting an adjournment. The request was denied.

The mitigation hearing was held on October 13, 1993, and the respondent was represented by new counsel, Walter Gusciora, Esq. Nine character witnesses testified on behalf of Dr. Ammirata in regard to his character and moral fitness. These included dental patients, friends, and clergy. In addition, the Board heard testimony from respondent's treating chiropractor and received a letter report from his treating medical doctor concerning his medical condition. The Board also accepted numerous letters from Dr. Ammirata's patients stating satisfaction with his services. Dr. Ammirata also addressed the Board on his own behalf.

The Board deliberated on this matter in Executive Session after the termination of the mitigation hearing on October 13, 1993 and announced its decision in public session on the same date. This Order memorializes the Board's decision.

DISCUSSION

The Board reviewed, at great length, all of the documentary evidence as well as respondent's testimony offered during the course of the hearings to establish successful completion of continuing education courses. In certain instances the Board determined to refuse to grant the continuing education credits requested by the respondent for specific courses. The first reason for refusing to grant continuing education credits was that there existed insufficient documentation to support a finding that the respondent had actually completed the course. Generally, this conclusion was reached in those cases where no documentation was submitted or the offered documentation was so

unreliable that the Board could not reasonably agree to grant credit.

The second reason for refusing to grant the total amount of credits requested by the respondent was a determination by the Board not to grant credit for the lunch hour during a full day continuing education course. The Board found that continuing education courses offered by academic institutions did not grant credit for the lunch hour. In order to grant credit on a consistent basis, the Board determined not to grant credit for the lunch hour for those courses offered by private groups and associations as well.

The third reason for refusing to grant credit for a continuing education course requested by the respondent was a conclusion by the Board that the course was not related to dental treatment. As a general rule, the courses in this category related to the business management of a dental practice in areas which did not impact on patient care.

The fourth reason for refusing to grant the total amount of credits requested by the respondent was a determination by the Board to allow only one hour of continuing education credit for meetings of professional associations with dinner speakers. In these instances the respondent requested two hours of continuing education credit. The Board determined that granting credits for these meetings was questionable at best and that one hour of continuing education credit was more than reasonable.

Accordingly, attached to this Order and made a part hereof

in its entirety is an exhibit which lists in chronological order all of the continuing education courses submitted by the respondent with the number of credits requested and the number of credits granted by the Board. In each case where there is a deviation between the credits requested and the credits granted a reason is provided for the Board's decision.

The Consent Order dated May 4, 1988 into which the respondent entered with the Board of Dentistry and which the respondent is alleged to have violated in the instant complaint provides in pertinent part as follows:

1. For a period of five (5) years commencing from the entry of this Consent Order, Dr. Ammirata shall comply with the following conditions of licensure:

- (a) Dr. Ammirata (hereinafter referred to alternatively as "Dentist") shall successfully complete not less than 450 hours of continuing dental education subject to modification by the Board, in the event that 450 hours of education are not available, in such areas of dental practice as may be determined by the Board, each year at the rate of at least two days per week and not less than a minimum average of ten hours per week. He shall not be credited for any courses taken pursuant to this Consent Order unless, prior to his enrollment, he has submitted an adequate course description to the Board and has received written approval from the Board of such course(s) which approval will be timely and not unreasonably delayed or withheld. It shall be Dr. Ammirata's responsibility to submit adequate course descriptions or other necessary information to the Board at least thirty (30) days in

advance of the course enrollment period for the Board to evaluate the acceptability of such courses. The literature provided by the educational institution describing the courses to the intended participants will be considered sufficient for these purposes. Documentation of Dr. Ammirata's satisfactory attendance at and completion of such courses shall be obtained by the dentist, and forwarded to the Board at the end of each month within which the course was completed. All costs of such work shall be borne entirely by Dr. Ammirata.

(b) Dr. Ammirata may continue to practice dentistry provided that such practice does not interfere with the requirements of paragraph 1(a), above.

* * *

10. In the event that the Board or the Attorney General receives notice that dentist may not be complying with the terms of this Consent Order, then the Board may, upon short notice to Dr. Ammirata giving him an opportunity to be heard, enter an Order temporarily suspending his license to practice dentistry until such time as a plenary hearing may be held as soon thereafter as possible before the Board or if the Board so chooses, the Office of Administrative Law, to determine whether he has violated any of the provisions of the Consent Order. In the event that Dr. Ammirata is found to have violated any of the provisions of this Consent Order, then his license to practice dentistry in the State of New Jersey shall be revoked.

A portion of the hearings in this matter was devoted to the issue of whether the respondent obtained prior approval for continuing education courses he intended to complete as required in the Consent Order. The testimony adduced at the hearing

tended to show that the respondent made some effort to obtain prior approval at the beginning of the first year of the Consent Order. Shortly thereafter his attempts to obtain prior approval diminished during the first year to the point that Dr. Ammirata failed to submit requests for prior approval. Further, he failed to submit any documentation demonstrating completion of continuing education courses regardless of whether prior approval had been granted.

At the hearing on June 10, 1992, D.A.G. Kelly presented the testimony of A. Milton Bell, D.D.S. Dr. Bell is a licensed dentist practicing in the State of New Jersey, and he is also an instructor of prosthodontics and an Assistant Dean at the New York University College of Dentistry. Dr. Bell was offered and accepted by the Board as an expert in general dentistry and prosthodontics. Dr. Bell testified that pursuant to the Consent Order entered on May 5, 1988, between the Board of Dentistry and respondent, he was appointed by the Board to monitor Dr. Ammirata's dental practice. Part of his responsibilities as a monitor was to review continuing education courses for prior approval and to obtain proof of attendance for those courses successfully completed by the respondent. In addition to the correspondence between Dr. Bell and Dr. Ammirata which was admitted into evidence, Dr. Bell testified that in his contacts with Dr. Ammirata he continually stressed the necessity of proper compliance with the terms and conditions of the Consent Order which required that Dr. Ammirata obtain prior approval for

continuing education courses and that upon approval, he was required to provide proof of successful completion of the courses. According to Dr. Bell, the respondent continuously failed to comply with the protocol set forth in the Consent Order.

Dr. Bell also testified that he continuously requested from Dr. Ammirata cancelled checks as proof of attendance at courses, but these were never provided to him. He also specifically discussed with Dr. Ammirata the necessity of providing identifying information in regard to courses including the date of the course, the provider of the course, and instructor for the course in order to obtain credit for attendance.

The respondent acknowledged during the course of the hearing that he fully understood the terms of the Consent Order and Dr. Bell's admonishments. However, he also admitted that he failed to comply with these terms by taking courses without Board approval notwithstanding that the Board never amended or altered the requirements of the Consent Order.

In consideration of the record herein, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent, Anthony V. Ammirata, D.D.S., with an office address at 11 Gordon Avenue, Lawrenceville, New Jersey 08648, license No. 7824, is a licensed dentist in the State of New Jersey and has been a licensee of the Board of Dentistry during all times pertinent hereto.

2. On December 5, 1980, the Board of Dentistry entered a Final Decision and Order against Dr. Ammirata setting forth a plea of no contest to the charges of an administrative complaint alleging repeated and gross malpractice in the practice of dentistry by making improper diagnoses of TMJ arthritis and unnecessarily prescribing long and costly treatment therefor and rendering restorative dental treatment which was not performed according to acceptable dental standards and also alleging a lack of good moral character as evidenced by his charging of unconscionable and excessive fees for treatment of patients and for attempts to collect fees for treatment not required and not rendered. The Order provided that Dr. Ammirata's license was to be suspended for a period of one (1) year, thirty (30) days of which was an active period of suspension and the remainder probationary. In addition, the respondent was enjoined from treating TNJ patients until he completed a residency program in prosthodontics or periodontics, and he was assessed a civil penalty in the amount of \$10,000.00.

3. On April 26, 1985, an administrative complaint was filed by the Attorney General of New Jersey with the Board of Dentistry against the respondent alleging in Count I repeated and/or gross acts of negligence and malpractice in regard to dental treatment and in Count II treating patients for TMJ disorders without having completed the required residency course in violation of the December 5, 1980 Order.

4. On June 9, 1987, an administrative complaint was filed

by the Attorney General of New Jersey with the Board of Dentistry against the respondent alleging in eighteen (18) counts multiple acts of gross or simple malpractice as well as fraud and professional misconduct in connection with dental treatment and insurance claims for such treatment.

5. On May 4, 1988, the respondent entered into a Consent Order with the Board of Dentistry which resolved the aforementioned administrative complaints. Paragraph 1(a) of the Consent Order required Dr. Ammirata for a period of five (5) years to complete 450 hours of continuing education in such areas of dental practice to be determined by the Board each year at the rate of at least two days per week and not less than a minimum average of ten hours per week. Such courses were to be approved by the Board prior to enrollment. Respondent further was required to obtain documentation of his satisfactory attendance at and completion of such courses to be provided to the Board at the end of each month within which the course was completed.

6. The Order of May 4, 1988 further provided in paragraph 10 that in the event the respondent was found to have violated any of the provisions of the Consent Order, his license to practice dentistry in the State of New Jersey would be revoked.

7. The Board finds by a preponderance of the evidence that respondent completed 409 hours of the 450 required hours of continuing education for the 1988-1989 academic year. (See Exhibit "A" attached hereto and made a part of the within Order.)

8. The Board finds by a preponderance of the evidence that

the respondent completed 341 hours of the 450 required hours of continuing education for the 1989-1990 academic year. (See Exhibit "A" attached hereto.)

9. The Board finds by a preponderance of the evidence that respondent completed 139 hours of the 450 required hours of continuing education for the 1990-1991 academic year. (See Exhibit "A" attached hereto.)

10. With very limited exception, the Board finds by a preponderance of the evidence that respondent failed to obtain prior written approval for the continuing education courses he intended to take as required by the May 4, 1988 Order and further failed to provide the Board with documentation of his satisfactory attendance at and completion of such courses which was to be provided to the Board on a monthly basis until he was compelled to do so by the filing of the instant complaint.

CONCLUSIONS OF LAW

1. Respondent's failure to complete 450 hours of continuing education in the 1988-1989 academic year as required by the Board's Order of May 4, 1988 constitutes professional misconduct within the meaning of N.J.S.A. 45:1-21(e). (Count I)

2. Respondent's failure to complete 450 hours of continuing education for the 1989-1990 academic year as required by the Board's Order further constitutes professional misconduct within the meaning of N.J.S.A. 45:1-21(e). (Count II)

3. Respondent's failure to complete 450 hours of continuing education for the 1990-1991 academic year as required by the

Board's Order further constitutes professional misconduct within the meaning of N.J.S.A. 45:1-21(e). (Count III)

* * *

As competently demonstrated by the testimony and the documents entered into evidence at the hearings in this matter, Dr. Ammirata has repeatedly and totally failed or refused to comply with the specific terms and conditions of the Consent Order which he signed requiring him to successfully complete 450 hours of continuing education courses for each of five (5) years. It should be noted that the administrative complaint filed in the instant case contained allegations concerning the first three years of required continuing education. Respondent has not submitted any courses to the Board for prior approval for the academic years 1991-1992 or 1992-1993. Although the completion of continuing education for the last two years of the period covered by the Consent Order are not at issue here, the Board notes that respondent was silent as to the completion of any further courses at the mitigation hearing when he had an opportunity to submit such evidence to the Board.

As a general rule, the Board of Dentistry will assess continuing education courses against those licensees who have demonstrated a deficiency in competency in one or more areas of dentistry in amounts ranging anywhere from 7 hours to 40 hours of approved continuing education. It is clear from the history of Dr. Ammirata's appearances before the Board dating back to the Order entered on December 5, 1980, that the Board intended a

massive and comprehensive re-education of Dr. Ammirata. The multiple patient complaints which have been received by this Board over the last 12 years showing repeated and gross negligence in all areas of dentistry coupled with resistance to remedial education to address those deficiencies persuade this Board that the respondent is not competent to remain in practice.

By respondent's own admissions, the degree of failure to complete continuing education increased as the time period covered by the Consent Order progressed. Respondent further admitted that he failed to comply with the requirement that he obtain prior written approval of courses he intended to take. Dr. Ammirata characterized this conduct as careless, but the Board finds this conduct representative of a flagrant disregard for the provisions of the Consent Order which he signed and fully understood.

In spite of repeated efforts by the Board to remediate the respondent's skill and competency as a dentist in order to enable him to remain in practice, Dr. Ammirata has reneged on his responsibility to engage in re-education. His actions totally obstruct and frustrate the Board's ability to carry out its statutory duty to protect the public. His failure to comply with the Board's prior Orders evidence a pattern of neglect of his patients' health, safety and welfare.

The Board is not persuaded that respondent's medical condition was responsible for his failure to comply with the terms of the Consent Order. Dr. Ammirata practiced dentistry

throughout the period in question, and the Consent Order of May 4, 1988 specifically provided that Dr. Ammirata could continue to practice dentistry provided only that such practice did not interfere with the requirements for completing the continuing education. Dr. Ammirata's primary responsibility was to complete the continuing education. In view of the fact that there is no evidence in the record that respondent's medical condition prevented him from practicing dentistry, such condition may not be relied upon by him as an excuse for failing to comply with the Order.

The Board can neither countenance Dr. Ammirata's flouting of its regulatory authority nor ignore the harm or significant potential for harm to patients presented if Dr. Ammirata was permitted to remain in practice. Respondent was on notice by the Consent Order entered on May 4, 1988, that the consequences of failing to comply with the Order would be revocation of his license. The Board and the public have a right to expect that those in whom they have reposed a measure of trust will hold up their share of the bargain. When Dr. Ammirata failed to do so, he demonstrated that he was no longer worthy of the trust of the Board and the public.

The Board finds that respondent's status as a repeat offender is one of the most disturbing aspects of this case. The record concerning Dr. Ammirata dates back to 1980. The requirement of the Consent Order that respondent complete continuing education courses was based on the seriousness of the

charges lodged over the years and the Board's judgment that only such a massive program of re-education would provide respondent with the ability to continue treating dental patients.

The Board thoroughly considered the record before it. Notwithstanding the recommendations and praise which respondent has received from a number of patients and friends who testified on his behalf as well as those who provided letters, the Board must take into account respondent's admitted violation of the Consent Order.

The Board is charged with the regulation of its licensees for the purpose of protecting the patients who seek dental services in this State. The Board concludes that leniency is no longer appropriate in matters concerning the respondent. The authority to practice dentistry in the State of New Jersey is a privilege not to be taken lightly. In view of the fact that respondent has failed to engage in re-education at the level contemplated by the Board in order to assure the safe delivery of dental services to the citizens of this State, any mitigation factors in favor of the licensee are outweighed by the Board's greater duty to assure confidence in the integrity and competence of its licensees. Consequently, and for the foregoing reasons,


IT IS ON THIS 25th DAY OF *October*, 1993,

HEREBY ORDERED THAT:

1. The license of Anthony V. Ammirata, D.D.S. to practice dentistry in the State of New Jersey is hereby revoked effective December 31, 1993.

2. Effective immediately, Dr. Ammirata shall not commence treatment of any new patients and shall complete ongoing treatment of patients of record and arrange for the orderly transfer of their records to other licensees.

3. Respondent shall comply with all of the terms and requirements of the "Directive Regarding Future Activities of Board Licensee Who Has Been Suspended/Revoked and Use of the Professional Premises" which is attached hereto as Exhibit "B" and made a part of the within Order in its entirety.


MARVIN A. GROSS, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY

GBS:cha
3/25/88

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DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
OAL DOCKET NO. BDS 3521-86 &
BDS 05592-87
AGENCY DOCKET NO. D-83-10-89(85)
& D-004-87

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

ANTHONY V. AMMIRATA, D.D.S.

TO PRACTICE DENTISTRY IN THE
STATE OF NEW JERSEY

ADMINISTRATIVE ACTION
CONSENT ORDER

This matter having been opened to the New Jersey State
Board of Dentistry by way of Administrative Complaints filed
April 26, 1985 and June 9, 1987 by W. Cary Edwards, Attorney
General of New Jersey, by Maxine H. Neuhauser and Alice J.
Guttler, respectively, Deputy Attorneys General, alleging mul-
tiple counts of gross or simple malpractice as well as fraud
and professional misconduct in the handling of certain insurance

EXHIBIT C

claims; and it appearing that the parties wish to amicably resolve this matter; and the Board having reviewed the terms of this Order and determined that good cause exists for its entry,

IT IS, THEREFORE, on this 4th day of April May, ⁽²⁷⁾

1988,

ORDERED AND AGREED that:

1. For a period of five (5) years commencing from the entry of this Consent Order, Dr. Ammirata shall comply with the following conditions of licensure:

(a) Dr. Ammirata (hereinafter referred to alternatively as "Dentist") shall successfully complete not less than 450 hours of continuing dental education subject to modification by the Board, in the event that 450 hours of education are not available, in such areas of dental practice as may be determined by the Board, each year at the rate of at least two days per week and not less than a minimum average of ten hours per week. He shall not be credited for any courses taken pursuant to this Consent Order unless, prior to his enrollment, he has submitted an adequate course description to the Board and has received written approval from the Board of such course(s) which approval will be timely and not unreasonably delayed or withheld. It shall be Dr. Ammirata's responsibility to submit adequate course descriptions or other necessary information to the Board at least thirty (30) days in advance of the course enrollment period for the Board to evaluate the acceptability

of such courses. The literature provided by the educational institution describing the courses to the intended participants will be considered sufficient for these purposes. Documentation of Dr. Ammirata's satisfactory attendance at and completion of such courses shall be obtained by the dentist, and forwarded to the Board at the end of each month within which the course was completed. All costs of such course work shall be borne entirely by Dr. Ammirata.

(b) Dr. Ammirata may continue to practice dentistry provided that such practice does not interfere with the requirements of paragraph 1(a), above.

(c) Dr. Ammirata's practice of dentistry shall be monitored by a New Jersey licensed dentist, with experience in the area of temporo-mandibular joint (TMJ) or myofascial pain dysfunction (MPD) syndromes, approved by the Board. Dr. Ammirata shall permit said monitor to make random unannounced visits to his dental office, as the monitor deems necessary, but not less than one day per week, to review patient treatment plans and records and to see any patients, as the monitor deems necessary, to assure that each treatment plan is appropriate and is being carried out in accordance with acceptable standards of dental practice. Dr. Ammirata can not unreasonably refuse to permit said visit on days that his office is opened for business. Every effort will be made to respect the peace, tranquility

and normal operation of Dr. Ammirata's office when the monitor makes said visits. In the discretion of the monitor, any TMJ or MPD treatment plan may be submitted to a member of the faculty of the TMJ Clinic of the New Jersey Dental School or any other institution approved by the Board for review and an opinion as to the propriety of such treatment plan. Dr. Ammirata shall fully cooperate with said monitor in carrying out the requirements of this Consent Order, and will take recommended corrective action in the event that deficiencies or errors in his practice are found by the monitor. Said monitor shall forward quarterly reports to the Board concerning Dr. Ammirata's co-operation and dental practice. All ^{REASONABLE} costs of such monitoring, including, but not necessarily limited to monitor's fees and reasonable travel expenses as well as any of the aforementioned submissions of TMJ or MPD treatment plans for review, shall be borne entirely by Dr. Ammirata.

(d) Dentist shall permit the monitor, designated in accordance with paragraph 1(c), above, to periodically review any or all of Dr. Ammirata's patient and practice records, including, but not necessarily limited to, submissions to patients' insurance carriers. Dr. Ammirata shall fully cooperate with said monitor in the event that errors or questionable entries in such records are found by the monitor. Said monitor shall forward quarterly reports to the Board concerning Dr. Ammirata's cooperation and record-keeping practices. All costs associated with this paragraph [1(d)] including, but

not necessarily limited to monitor's fees and reasonable travel expenses, shall be borne entirely by Dr. Ammirata.

(e) Notwithstanding any of the aforementioned quarterly report requirements, in the event that the monitor concludes that a significant violation of this Consent Order has occurred, is occurring or is about to occur, said monitor shall immediately notify the Board or the Attorney General and shall cooperate in whatever proceedings are instituted by the Board or the Attorney General, if any.

(f) In the event that the Board is unable to locate a New Jersey licensed dentist to serve as monitor, it shall be Dr. Ammirata's responsibility to find a monitor acceptable to the Board within such period of time as the Board may hereafter establish.

(g) A copy of this Consent Order shall be furnished to the monitor approved by the Board in accordance with this paragraph.

2. Dentist shall, within 30 days of the entry of this Consent Order, forward to the Board a check in the amount of \$1,750 payable to Robert Povia. Said check shall be forwarded by the Board to Robert Povia upon receipt.

3. Dr. Ammirata shall, within 60 days of the entry of this Consent Order, forward to the Board a check in the amount of \$1,000 payable to Patricia Reinech. Said check shall be forwarded by the Board to Patricia Reinech upon receipt.

4. Dentist shall, within 90 days of the entry of

this Consent Order, forward to the Board a check in the amount of \$2,500 payable to Selected Risks Insurance Company for the benefit of Rita Mary Everett (Claim No. 00239208-1). Said check shall be forwarded by the Board to Selected Risks Insurance Company.

5. Dr. Ammirata shall immediately cause to be withdrawn or dismissed with prejudice any and all civil collection actions against the following former patients:

- (a) James and/or Linda Vasta
- (b) Paul J. Melillo, Jr.
- (c) Carolyn Mazellan

In the event that a judgment has been obtained against any of the above-named patients, Dr. Ammirata shall cause a Warrant of Satisfaction of Judgment to be filed as to each, absolving said patient of any alleged debt owed to Dr. Ammirata. Dr. Ammirata shall, within fifteen days of receipt of documentation of compliance with this paragraph, forward such documentation to the Board.

6. Dentist shall waive all uncollected fees, whether sought from patients' insurance carriers or directly, through civil action or any other means of collection, from the following patients:

- (a) Salvatore Piazza
- (b) Michael Lovero
- (c) Diane Moore

In the event that Dr. Ammirata has caused a civil col-

lection action to be filed against any of the aforementioned patients, he shall immediately follow the procedure outlined in paragraph 5, above, for absolving said patient of any alleged debt owed to him. Dentist shall, within fifteen days of such action taken, submit evidence to the Board of his compliance with this paragraph.

7. Dr. Ammirata shall pay a civil penalty to the Board in the amount of \$1,000 within 120 days of the entry of this Consent Order or in such installments as the Board shall hereinafter approve.

8. Dentist shall pay costs to the Board in the amount of \$4,608.93 within 150 days of the entry of this Consent Order or in such installments as the Board shall hereinafter approve.

9. Should Dr. Ammirata default in the timely payment of any of the funds required by this Consent Order, then the Board may declare the entire sum due and owing forthwith and such default may, in the Board's discretion, be deemed a violation of this Consent Order.

10. In the event that the Board or the Attorney General receives notice that Dentist may not be complying with the terms of this Consent Order, then the Board may, upon short notice to Dr. Ammirata giving him an opportunity to be heard, enter an order ^{TEMPORARILY} suspending his license to practice dentistry until such time as a ^{HEARING} hearing may be held as soon thereafter as possible before the Board or, if the Board so chooses, the Office of Administrative Law, to determine whether he has

violated any of the provisions of this Consent Order. In the event that Dr. Ammirata is found to have violated any of the provisions of this Consent Order, then his license to practice dentistry in the State of New Jersey shall be revoked.

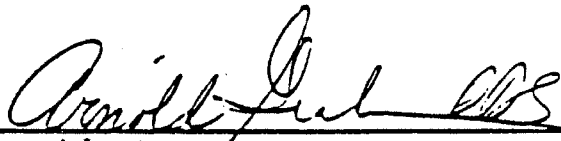
11. In the event that Dr. Ammirata leaves the practice of dentistry in the State of New Jersey, then terms of this Consent Order, other than the payment of monies as provided in paragraphs 2 through 8, shall be held in abeyance. Thereafter, should dentist return to practice in the State of New Jersey, then the terms of this Consent Order, for whatever balance of time was remaining, shall automatically be reimposed. Upon such return to practice in the State of New Jersey, Dr. Ammirata, may, however, apply to the Board for modification of this Consent Order upon such showing, as the Board deems sufficient, that he has completed such further education as to warrant any requested modification.

12. Under no circumstances shall Dr. Ammirata's departure from the practice of dentistry in the State of New Jersey absolve him of the requirements of paragraphs 2 through 8 above.

13. Entry of this Consent Order resolves only those matters referenced herein by docket number or patient name.


14. This Consent Order supersedes the Board's Partial Decision and Final Order concerning Count II dated March 19, 1987.

15. Dr. Ammirata agrees to dismiss the appeal filed with the Superior of New Jersey, Appellate Division, Docket No. A-3636-86 T7.



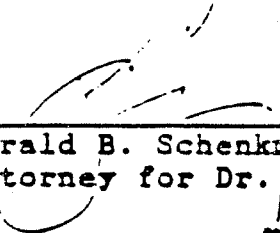
President
State Board of Dentistry

I hereby agree to the terms and conditions of this Consent Order.



Anthony V. Ammirata, D.D.S.

Date: 6-1-88, 1988



Gerald B. Schenkman, Esq.
Attorney for Dr. Ammirata

Date: 7 April 1988, 1988

EXHIBIT

IN THE MATTER OF ANTHONY AMMIRATA, D.D.S.

CONTINUING EDUCATION RECORD

DATE	COURSE	CREDITS REQUESTED	CREDITS GRANTED	REASON
9/14/88	Dental Insurance	7	7	
9/28/88	Concepts in Bonding	7	7	
9/88-5/89	Fixed and Removable Prosthodontics	230	230	
10/5/88	Operative Dentistry	6	6	
10/7/88	Bite Plates & Splints	6	0	Insufficient Documentation (ID)
10/12/88	Periodontics	3	7	
10/19/88	Esthetics	7	7	
10/26/88	Practice Mgmt.	7	7	
11/2/88	Prosthodontics	6	6	
11/9/88	Preventive Dentistry	7	7	
11/16/88	Mgmt. Dental Practices	6	6	
12/3/88	Material Science	5	5	
12/7/88	Fixed Prosthodontics	7	7	
12/18/88	Precision Attachments	7	0	
1/13/89	TMJ	7	7	ID
1/25/89	Occlusion	7	6	
2/1/89	Partial Dentures	7	6	No Credit for Lunch Hour (LH)
2/8/89	Office Design	7	6	LH
2/15/89	Ceramics	6	6	
2/22/89	Pharmacology	7	7	
3/1/89	Endodontics	6	6	
3/4/89	Radiology	5	4	LH
3/8/89	Esthetics	7	7	
3/15/89	Tooth Color Restoration	4	4	
3/23/89	Periodontal Surgery	7	7	
4/5/89	Endo-Perio Relationships	7	7	
4/12/89	Practice Mgmt.	7	6	LH
4/1--7/89	Academy Cranio Disorders	18	0	ID
4/19/89	Bleaching Vital Teeth	3	3	
4/26/89	Practice Mgmt.	7	7	
5/3/89	Practice Mgmt. (Computers)	7	6	LH
5/10/89	TMJ Dysfunction	6	6	
5/17/89	Implants	6	6	
	SUBTOTAL FOR 88-89	442	409	

9/15/89	Dynamics of Interim Dentures	3	3		
9/27/89	OSHA	4	4		
9/29/89	Financial Mgmt. Dental Practice	3	0		Not Related to Dental Treatment(DT)
10/4/89	Oral Care Periodontics	7	0		ID
10/6/89	Endodontics	7	6		LH
10/11/89	Fixed Prosthodontics	7	7		
10/13/89	Complete Dentures	7	6		LH
10/18/89	Practice Mgmt. Cash Flow	7	0		DT
10/20/89	Periodontics	6	6		
10/25/89	Complete Dentures	7	6		LH
10/27/89	Periodental Prosthesis	7	6		LH
11/3/89	Implants	7	6		LH
11/8/89	Esthetics - fixed	7	7		
11/10/89	Practice Mgmt. (Stress Mgmt.)	7	7		LH
11/15/89	Esthetics - fixed	7	6		DT
11/29/89	Finances	3	0		LH
12/6/89	Esthetics - fixed	7	6		
12/8/89	Practice Mgmt. (Growth, Strategies)	6	0		DT
12/13/89	Ceramics	7	7		
1/10/90	Occlusion in G.P.	7	7		
1/17/90	Esthetic Orthodontics	7	7		
1/24/90	TMJ Dysfunction	3	3		DT, ID
1/24/90	Psychology	6	0		
1/31/90	Instrumentation	3	3		
1/31/90	Clinical Aspects of Taste & Smell	3	3		
2/7/90	Alternatives to Implants	6	6		
2/23/90	Endodontics	7	7		
2/28/90	Implants	7	7		
3/2/90	Dental Materials	5	4		LH
3/3/90	Removable Prosthodontics	5	4		LH
3/4/90	Medically Compromised Patients	5	4		LH
3/7/90	Practice Mgmt. (Taking a Partner)	7	0		DT
3/9/90	Fixed Prosthodontics (Implants)	4	4		
3/10/90	Fixed Prosthodontics	3	3		
3/11/90	Complete Dentures	7	0		ID
3/13/90	Athitis	7	0		ID

3/14/90	Practice Mgmt.	7	7	ID
3/21/90	Emergency Training	8	0	ID
3/23/90	Dental Jurisprudence (Risk Mgmt.)	6	0	DT
3/28/90	Implants (Oral Surgery)	7	7	DT
4/4/90	Practice Mgmt.	7	0	
4/18/90	Implants	7	7	
4/20/90	Complete Dentures	7	7	
4/25/90	Periodontics	7	7	
5/2/90	Basic Sciences	7	7	
5/5/90	Clinical Mgmt. of Facial Pain	7	6	LH
5/6/90	Anesthesia Pain Control	5	0	ID
5/11/90	TMJ Dysfunction	14	14	
5/16/90	Oral Rehabilitation	7	7	
5/18/90	Fixed Prosthodontics	6	6	
5/25/90	Emergency Training	3	3	
5/30/90	Auxiliary Utilization	6	6	
5/31/90	Assoc. Master Dental Tech Tr.	33	33	
5/31/90	Assoc. Master Dental Tech. Tr.	65	65	
6/15/90	Implants	15	15	
	SUBTOTAL FOR 89-90	428	341	

8/7/90	Patient Insurance	2	0	ID
8/24-6/93	TMJ	24	20	2 1/2 Day Course
9/5/90	Soft Tissue Mgmt.	7	0	ID
9/18/90	Fixed Prosthodontics (Crown Root,	2	1	One Hour for Planner Speaker (DS)
9/22/90	Chamomelic Method Vertical Dtm.	6	0	ID
9/25/90	CPR	3	0	ID
9/26/90	Finances of Dental Practice	3	0	DT
10/2/90	TMJ Dysfunction	3	0	ID
10/3/90	Patient Insurance Programs	7	7	
10/12-14	Porcelain Ceramics	19	19	
10/16/90	Employee Honesty	2	1	DS
10/24/90	Complete Dentures	6	6	
10/26/90	Esthetics	7	7	

10/30/90	Self-Improvement	4	0	ID, DT
11/3/90	Fracture Mgmt.	7	7	Duplicated Date
11/3/90	TMJ treatment	10	7	ID
11/6/90	TMJ treatment	3	0	
11/14/90	Occlusion	7	7	
11/16/90	Periodontics	7	7	
11/21/90	Hypnosis for Dentists	4	4	
11/28/90	Retru and Prosthodontics	7	7	
11/30/90	Orthodontics	2	1	DS
11/4/90	Topics Regarding TMJ	3	0	DT, ID
1/9/91	Porcelain Restorations	7	7	
1/15/91	Implants	2	1	DS
2/2/91	Head and Neck Imaging	3	3	
2/20/91	Clinical Mgmt. of Pain	7	6	LH
3/19/91	Endodontics	2	1	DS
4/16/91	Emergency Training	2	1	
4/24/91	Fixed Prosthodontics	6	6	
5/15/91	New Products	7	7	
6/5/91	Diag. Orofacial Pain	6	6	
6/7/91	N.J.D.A. Mtg.	5	0	
	SUBTOTAL FOR 90-91	192	139	ID

DIRECTIVE REGARDING FUTURE ACTIVITIES
OF BOARD LICENSEE WHO HAS BEEN SUSPENDED/
REVOKED AND USE OF THE PROFESSIONAL PREMISES

A practitioner whose license is suspended or revoked or whose surrender of license with or without prejudice has been accepted by the Board shall conduct him/herself as follows.

- 1) Promptly deliver to the Board the original license and current biennial registration and, if authorized to prescribe drugs, the current State and Federal Controlled Dangerous Substances registrations.
- 2) Desist and refrain from the practice of dentistry in any form either as principal or employee of another licensee.
- 3) Inform each patient at the time of any inquiry of the suspended or revoked or retired status of the licensee. When a new licensee is selected by a patient, the disciplined practitioner shall promptly make available the original or a complete copy of the existing patient record to the new licensee, or to the patient if no new licensee is selected. Such delivery of record does not waive any right of the disciplined practitioner to claim compensation earned for prior services lawfully rendered.
- 4) Not occupy, share or use office space in which another licensee practices dentistry.
- 5) Desist and refrain from furnishing professional dental services, giving an opinion as to the practice of dentistry or its application, or any advice with relation thereto; and from holding him/herself out to the public as being entitled to practice dentistry or in any way assuming to be a practicing professional or assuming, using or advertising in relation thereto in any other language or in such a manner as to convey to the public the impression that such person is a legal practitioner or authorized to practice dentistry. This prohibition includes refraining during the period of suspension or revocation from placement of any advertisement or professional listing in any advertising medium suggesting eligibility for practice or good standing.
- 6) Cease to use any stationery whereon such person's name appears as a dentist in practice. If the practitioner was formerly authorized to issue written prescriptions for medication or treatment, such prescription pads shall be destroyed if the license was revoked. If the license was suspended, the prescriptions shall be destroyed or shall be stored in a secure location to prevent theft or any use whatsoever until issuance of a Board Order authorizing use by the practitioner. Similarly, medications possessed for office use shall be lawfully disposed

of, transferred or safeguarded.

7) Not share in any fee for dental services performed by any other licensee following the suspension, revocation or surrender of license, but the practitioner may be compensated for the reasonable value of the services lawfully rendered and disbursements incurred on the patient's behalf prior to the effective date of the suspension, revocation or surrender.

8) Use of the professional premises. The disciplined licensee may allow another licensee to use the office premises formerly occupied by the disciplined licensee on the following conditions only:

(a) The new licensee shall conduct the practice in every respect as his/her own practice including billings, claim forms, insurance provider numbers, telephone numbers, etc.

(b) The disciplined licensee may accept no portion of the fees for professional services rendered by the new licensee, whether by percentage of revenue, per capita patient, or by any other device or design, however denominated. The disciplined licensee may, however, contract for or accept payment from the new licensee for rent (not exceeding fair market value) of the premises and either dispose of or store the dental material and equipment, but in no event shall the disciplined licensee, on the basis of a lease or any other agreement for compensation place in the possession of any operator, assistant or other agent such dental material and equipment, except by a chattel mortgage.

(c) No use of name of disciplined licensee or personally owned office name or tax- or provider identification number.

1. Where the disciplined licensee was using an individual IRS number or where the licensee was the sole member of an incorporated professional association or a corporation, the disciplined licensee may contract to rent the office premises to a new practitioner. The new practitioner must use his/her own name and own provider number on all bills and insurance claim forms. Neither the name nor the number of the disciplined licensee may be used. When the license of a sole practitioner has been revoked, a trade name must be cancelled and a professional service corporation must be dissolved.

2. Where the disciplined licensee is a

member of a professional group which uses a group-type name such as the ABC Dental Group, the disciplined licensee must arrange to have his/her name deleted, covered up or otherwise obliterated on all office signs, advertisements published by the group after the effective date of the Board disciplinary Order and on all printed billings and stationery. The other group members may continue to function under the incorporated or trade name, minus the name of the disciplined licensee, and may continue to use its corporate or professional identification number.

(9) Report promptly to the Board compliance with each directive requiring moneys to be reimbursed to patients or to other persons or third party payors or to any court, and regarding supervisory reports or other special conditions of the Order.

(10) A practitioner whose license is surrendered, revoked or actively suspended for one year or more shall conduct him/herself as follows:

1) Promptly require the publishers of any professional directory and any other professional list in which such licensee's name is known by the disciplined licensee to appear, to remove any listing indicating that the practitioner is a licensee of the Board in good standing.

2) Promptly require any and all telephone companies to remove the practitioner's listing in any telephone directory indicating that such practitioner is a practicing professional.

(11) A practitioner whose practice privileges are affected by a Board disciplinary Order shall, within 90 days after the effective date of the Board Order, file with the Executive Director of the Board a detailed affidavit specifying by correlatively lettered and numbered paragraphs how such person has fully complied with this directive. The affidavit shall also set forth the residence or other address and telephone number to which communications may be directed to such person. Any change in the residence, address or telephone number shall be promptly reported to the Executive Director.